

REMARKS/ARGUMENTS

Claims 98, 99, 101, 103-106, 110, 112, 113 and 120 remain in this application. Claims 100, 102, 107-109, 114-119 have been cancelled.

Claim 120 of record stands rejected under 35 USC 112 first paragraph, as failing to comply with the written description requirement.

Claims 98-99, 101, 103-106, 109-110 and 112-113 stand rejected under 35 USC 102 and/or 35 USC 103.

Applicants traverse the above-mentioned rejections and maintain that the claims are novel, inventive, and fully supported by the specification for the reasons set forth in Applicants' previous response. Nevertheless, without acquiescing to the rejections and solely for the purpose of expediting prosecution, Applicants have amended the claims in accordance with the Examiner's findings as to allowable subject matter. Applicants reserve the right to pursue further claims in one or more divisional or continuing applications.

The Examiner acknowledges that claim 120 of record is free of the prior art, given the failure of the prior art to teach or suggest plant transformation with an *Agrobacterium* oncogene and a gene which represses the activity of the oncogene product. Accordingly, the Examiner indicates that amendment of claim 120 in part (b)(i) to delete the phrase "and derivatives of any thereof" would result in allowance of that claim.

As suggested by the Examiner, claim 120 has been amended to remove reference to "and derivatives of any thereof", thereby putting claim 120 in allowable form.

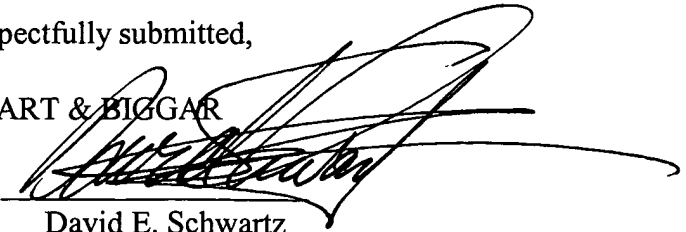
Claim 98 has been amended to recite the same repressible lethal gene selection as in claim 120. Therefore, like claim 120, claim 98, as amended, recites plant transformation with an *Agrobacterium* oncogene and a gene which represses the activity of the oncogene product. Accordingly, claim 98 and the claims dependent therefrom are also now in allowable form.

In view of the foregoing, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

SMART & BIGGAR

By

A large, stylized handwritten signature in dark ink, likely belonging to David E. Schwartz, is written over the signature line.

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